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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-206375

DATE: March 12, 1982

MATTER OF: Henry Horwitz

DIGEST:

GAO does not have authority to render binding decision relative to protest concerning actions of FHA/HUD in disposing of acquired properties since GAO's role is limited to performing audits pursuant to 31 U.S.C. § 850 (1976).

Mr. Henry Horwitz requests that a decision be made as to the successful bidder on Department of Housing and Urban Development (HUD/Federal Housing Administration (FHA) Property Disposition Branch) solicitation No. 30-82-81. Mr. Horwitz alleges that recent conversations with HUD indicate that HUD believes that the wording of the solicitation was ambiguous.

Pursuant to 12 U.S.C. § 1713(1) (1976), the Secretary of HUD may dispose of property notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States. Further, 12 U.S.C. § 1702 (1976) authorizes the Secretary to make such expenditures as are necessary to carry out the disposal of property and other functions without regard to any other provisions of law governing the expenditures of public funds and to sue and be sued in any court of competent jurisdiction. While this authority formerly resided in the Commissioner of the Federal Housing Administration, it was transferred in 1965 to the Secretary of HUD by the Department of Housing and Urban Development Act, Public Law 89-174, § 5(a), 79 Stat. 669, 42 U.S.C. § 3534 (1976). FHA's authority is similar in effect to the extraordinary authority to determine and prescribe obligations found in many Government corporation charters. Although FHA is not specifically chartered as a corporation, for the purpose of the

Government Corporation Control Act, it is defined in 31 U.S.C. § 846 (1976) as a wholly owned Government corporation. See 38 Comp. Gen. 343, 344 (1958).

The responsibility of our Office with respect to the Federal Housing Administration under applicable law is limited to performing an audit in accordance with the principles and procedures applicable to commercial transactions (31 U.S.C. § 850 (1976)) and to presenting a report of the audit findings to the Congress, 31 U.S.C. § 851 (1976). Consequently, HUD is not required as a matter of law to follow our decisions interpreting the legality of its property disposal actions. Mr. D. W. Hunt, B-186111, April 12, 1976, 76-1 CPD 222.

Therefore, our Office is without authority to decide this matter and it will not be considered. The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel